

## **REMARKS/ARGUMENTS**

### **I. STATUS**

Applicants have received the Office Action dated February 20, 2008, in which the Examiner: 1) rejected claims 21-24, 32, 39-41, 65-68, 73-75, 81-83, 88 and 89 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Scully et al. (U.S. Pat. No. 5,982,399, hereinafter “Scully”) in view of Applicants’ Admitted Prior Art (“APA”); 2) rejected claims 25, 30, 31 and 69 as being allegedly unpatentable over Scully in view of APA and Murphy (U.S. Pat. No. 6,348,919, hereinafter “Murphy”); 3) rejected claims 26 and 70 as being allegedly unpatentable over Scully in view of APA, Murphy and “Open GL™ Reference Manual” (pg. 300, 1992) hereinafter “Open GL”; 4) rejected claims 33, 38, 42, 44, 49-57, 61-63, 76, 78-80, 84 and 85 as being allegedly unpatentable over Scully in view of APA and Krech, Jr. (U.S. Pat. No. 6,057,852, hereinafter “Krech”); 5) objected to claims 21 and 72 due to informalities; 6) rejected claim 41 under 35 U.S.C. § 101 as unpatentable on the ground of statutory double-patenting doctrine over Brown et al. (U.S. Pat. No. 6,631,423, hereinafter “Brown”); and 7) rejected claim 67, 72 and 83 as unpatentable on the ground of nonstatutory obviousness-type double patenting doctrine.

With this Response, Applicants have amended claim 21 and canceled claim 72. Based on the amendments and arguments herein, Applicants respectfully submit that all pending claims are in condition for allowance.

### **II. NEXT OFFICE ACTION CANNOT BE FINAL**

The Summary section of the Office Action dated February 20, 2008 lists claims 27-29, 34-37, 43, 45-48, 58-60, 64, 71, 77 and 86-87 as rejected. However, the Office Action itself makes no mention of these claims at all. The Examiner has not explained which references were used to reject these claims, why the references are applicable, etc. Because Applicants have not been given an opportunity to address the Examiner’s rejections to these claims, the next Office Action, if any, must not be final. MPEP § 706.07.

### **III. REJECTIONS IN VIEW OF SCULLY AND APA**

The Examiner rejected claims 21-24, 32, 39-41, 65-68, 73-75, 81-83, 88 and 89 as allegedly obvious over Scully in view of APA. Applicants traverse this rejection. The Examiner has mapped various elements of independent claim 21 to Scully, but these mappings are inconsistent and, therefore, incorrect.

For example, claim 21 requires “a graphics interface through which the first driver transmits original graphics call sequences to the second driver.” The Examiner mapped the “first driver” to graphics application 118, but the Examiner already mapped the graphics application 118 to the “graphics application” recited elsewhere in claim 21 (Office Action, p. 2). The “first driver” and the “graphics application” cannot be the same thing, because they serve separate purposes, as recited in claim 21. Similarly, the Examiner mapped the “second driver” from the claim limitation above to the older renderer 184, but the Examiner already mapped the older renderer 184 to the “first driver” recited elsewhere in claim 21. The “first driver” and the “second driver” cannot be the same thing, because they serve separate purposes, as recited in claim 21. Similarly, the Examiner mapped Scully’s renderer stack to both the “graphics hardware” and the “performance optimization apparatus” required by claim 21. Because the Examiner’s mappings are unclear, it is difficult to understand how the renderer stack is “operationally interposed between the first and second driver,” and, indeed, the Examiner only vaguely refers to Figures 3-5 and 8-9 in mapping the graphics call sequence optimizer to Scully and fails to clearly demonstrate how the renderer stack is “operationally interposed” between the first and second drivers. APA fails to satisfy Scully’s deficiencies.

Based on the foregoing, Applicants respectfully submit that independent claim 21 and dependent claims 22-40 are patentable over the combination of Scully and APA.

Independent claim 41 requires “a method for optimizing the original graphics call sequence to generate an optimized graphics call sequence causing the graphics hardware to render with improved performance, a same image as the original graphics call sequence” and “restructuring the original graphics call

sequence to produce the optimized graphics call sequence.” The combination of Scully and APA fails to teach or suggest such limitations. These limitations are directed to the improvement/optimization of an original graphics call sequence so that a modified graphics call sequence is produced. The modified graphics call sequence produces the same image upon rendering as does the original graphics call sequence, but the modified graphics call sequence is optimized, resulting in greater execution efficiency, etc. In contrast, at col. 3, ll. 46-55, Scully merely teaches the rendering of graphics, not the improvement of code that is used to render the graphics. APA fails to satisfy Scully’s deficiencies.

Based on the foregoing, independent claim 41 and dependent claims 42-66 are patentable over the combination of Scully and APA.

Independent claim 67 requires a “graphics application,” “graphics hardware,” a “first driver,” a “second driver,” a “performance optimization apparatus” and an “optimized graphics call sequence.” As with independent claim 21 above, the Examiner inconsistently mapped these components to Scully. Scully fails to teach or suggest each of these components, and APA fails to satisfy Scully’s deficiencies. Thus, independent claim 67 and dependent claims 68-82 are patentable over the combination of Scully and APA.

Independent claim 83 requires “restructuring the original graphics call sequence to produce the optimized graphics call sequence.” As with independent claim 41 above, Scully fails to teach or suggest such a limitation, and APA fails to satisfy Scully’s deficiencies. Thus, independent claim 83 and dependent claims 84-89 are patentable over the combination of Scully and APA.

#### **IV. REJECTIONS UNDER SCULLY, APA AND MURPHY**

The Examiner rejected claims 25, 30-31 and 69 as allegedly obvious under Scully in view of APA and Murphy. As explained above, each of these claims is patentable over the combination of Scully and APA. Murphy fails to satisfy the deficiencies of Scully and APA. Thus, each of these claims is patentable over the combination of Scully, APA and Murphy.

**V. REJECTIONS UNDER SCULLY, APA, MURPHY AND OPENGL**

The Examiner rejected claims 26 and 70 as allegedly obvious under Scully in view of APA, Murphy and OpenGL. As explained above, each of these claims is patentable over the combination of Scully and APA. Murphy and OpenGL fail to satisfy the deficiencies of Scully and APA. Thus, claims 26 and 70 are patentable over the combination of Scully, APA, Murphy and OpenGL.

**VI. REJECTIONS UNDER SCULLY, APA AND KRECH**

The Examiner rejected claims 33, 38, 42, 44, 49-57, 61-63, 76, 78-80 and 84-85 as allegedly obvious over Scully in view of APA and Krech. As explained above, each of these claims is patentable over Scully and APA. Krech fails to satisfy the deficiencies of Scully and APA. Thus, each of these claims is patentable over the combination of Scully, APA and Krech.

**VII. CLAIMS OBJECTIONS**

The Examiner objected to claims 21 and 72 based on technicalities. Applicants hereby amend claim 21 to correct this error and cancel claim 72. Thus, Applicants respectfully request that the Examiner withdraw these objections.

**VIII. DOUBLE PATENTING REJECTIONS**

**A. Statutory Type**

Claim 72 stands rejected under the statutory-type double-patenting rejection doctrine in view of claim 46 of U.S. Patent No. 6,631,423. Applicants hereby cancel claim 72. Thus, Applicants request that the Examiner withdraw this rejection.

**B. Non-Statutory Type**

Claims 41, 67 and 83 stand rejected under the non-statutory double-patenting rejection doctrine in view of U.S. Patent No. 6,631,423. Applicants file herewith a terminal disclaimer to overcome this double-patenting rejection. Thus, Applicants kindly request that the Examiner withdraw these double patenting rejections.

**IX. CONCLUSION**

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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